

## Department of Defense

## § 9901.611

### § 9901.608 Displacement, release, and position offers.

(a) *Displacement to other positions on the retention list.* (1) An employee who is displaced because of position abolishment, or because of displacement resulting from the abolishment of the position of a higher-standing employee on the retention list, may displace a lower-standing employee on the list if—

(i) The higher-standing employee is qualified for the position consistent, as applicable, with 5 CFR 351.702, or the Department's own qualifications applied consistent with other requirements in 5 CFR 351.702;

(ii) No undue interruption would result from the displacement; and

(iii) The position of the lower-standing employee is in the same pay band, or in a lower pay band, as the position of the higher-standing employee.

(2) A displacing employee retains his or her status and tenure.

(b) *Release from the retention list.* (1) Employees are selected for release from the list on the basis of the ascending order of retention standing set forth in § 9901.607(a).

(2) A competing employee may not be released from a retention list that contains a position held by a temporary employee when the competing employee is qualified to perform in that position under § 9901.608(a)(1)(i).

(3) The release of an employee from the retention list may be temporarily postponed when appropriate under 5 CFR 351.506, 351.606, 351.607, and 351.608. Where part 351 uses the term “competitive level” in these four sections, the term *retention list* (as defined in this subpart) is substituted.

(c) *Placement in vacant positions.* At the Secretary's option, an employee affected by § 9901.608(a)(1) may be offered a vacant position within the competitive area in lieu of reduction in force, based on relative retention standing as specified in § 9901.607(a).

(d) *Actions for employees with no offer.* If a released employee does not receive an offer of another position under paragraph (c) of this section to a position on a different retention list, the Secretary may—

(1) Separate the employee by reduction in force; or

(2) Furlough the employee under § 9901.604(b)(3).

### § 9901.609 Reduction in force notices.

The Secretary will provide a specific written notice to each employee reached for an action in reduction in force competition at least 60 days before the reduction in force becomes effective. When a reduction in force is caused by circumstances not reasonably foreseeable, the Secretary, at the request of a Component head or designee, may approve a notice period of less than 60 days. The shortened notice period must cover at least 30 full days before the effective date of release. The content of the notice will be prescribed in implementing issuances.

### § 9901.610 Voluntary separation.

(a) The Secretary may—

(1) Separate from the service any employee who volunteers to be separated even though the employee is not otherwise subject to separation due to a reduction in force; and

(2) For each employee voluntarily separated under paragraph (a)(1) of this section, retain an employee in a similar position who would otherwise be separated due to a reduction in force.

(b) The separation of an employee under paragraph (a) of this section will be treated as an involuntary separation due to a reduction in force.

### § 9901.611 Reduction in force appeals.

(a) An employee who believes the provisions of this subpart were not properly applied may appeal the reduction in force action to the Merit Systems Protection Board as provided for in 5 CFR 351.901 if the employee was—

(1) Separated by reduction in force;

(2) Reduced in band by reduction in force; or

(3) Furloughed by reduction in force under § 9901.604(b)(3).

(b) Paragraph (a) of this section does not apply to actions taken under internal DoD placement programs, including the DoD Priority Placement Program.